1951. K File No. O. Dentists 51

Legal Dept.

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Office of the R.L.A.

Dentists Act, 1948 - Section 32.

The question raised for R.L.A.'s consideration is whether during the period intervening the stoppage of the work of the Dentists Registration Trubunal and constitution of the Dentitsts Council, the senior member andt he Registrar of the Tribunal can be authorised to operate the funds of the Tribunal till the funds are paid to the State Dentists Council when formed and to incur any expenditure from the same that may be required in connection with the holding of the first election to the Council.

Sub-section (1) of section 32 of the Dentists Act, 1948 provides for constituting a Registration Tribunal by Government by notification in the Official Gazette, consisting of 3 persons and also for appointment of a Registrar who shall act as Secretary to the Tribunal. Sub-section (2) provides that the Provincial Government shall by the same or alike notification appoint a date on or before which applications for registration which shall be accompanied by the prescribed fee, shall be made to the Registrar of the Tribunal. Under sub-section (6) upon the constitution of the Provincial Council, the Register shall be given into its susdody and the Provincial Government May direct all or any specified part of the application fees for registration in the first register shall be paid to the credit of the Provincial Council. There is no provision in the Act entitling the Registration Tribunal to operate the funds of the Tribunal realised by way of fees and to incur any expenditure as out of such funds. Sub-section (6) contemplates power of Government to

to recoup the expenditure incurred by it out of the fees collected under sub-section (2). Consequently, the proposal to authorise the senior member of the Tribunal and the Registrar of the Tribunal to operate the funds of the Tribunal would not be legally feasible. It would, however, be open to Government to incur expenditure in connection with the elections to the Provincial Council and to recoup the same out of the fees collected under sub-section (2) and to pay the balance to the Provincial Council under Sub-section (6).

o/c Sd/- (P.M.L.).
Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D.No. 1895 , dated the 31st Jan. 1951.

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R.I.No. 13574/29-6-51.

Under H.& L.G. Dept. Notification issued under section 32(2) of the Dentists Act, 1948, Government fixed 30th September 1949 as the last date on or before which applications for registration should be made to the Registration Tribunal. The date so fixed was 31st May was, however, extended and the last date fixed was 30th May 1950. (See L.S.G. & P.H.D. Notfn. No. 2338/33, dt. 20-2-1950). In para 7 of the Report submitted by the Appellate Authority appointed under sect. 32(4), it is stated that in the case of five appellants, it is convinced that the delay in submission of their applications to the Registration Tribunal was due to accidental circumstances, and recommends that Government should condone the delay in these cases and direct the Dental Council or the Registration Tribunal to take applications on file and decide them on merits.

The question for R.L.A's consideration is whether Government can condone the delay in submission of applications to the Registration Tribunal.

Sunder sub-section (1) of section 31 of the Dentists Act, 1948, the State Government shall, as soon as may be, cause to be prepared in the manner hereinafter provided, a Register of dentists for the Province. Under sub-sect. (3), the register of dentists shall be maintained in two parts, A and B, persons possessing recognised dental qualifications being registered in Part A, and persons not possessing such qualifications being registered in Part B, and the Register so prepared shall contain the particulars mentioned in clauses (a) to (e) of sub-section (4). Section 32 provides for the <u>first</u> preparation of the register of dentists. Under sub-sect. (1) of that section, for the purpose of <u>first</u> preparing the register, the State

State Government shall, by notification in the Official Gazette, constitute a Registration Tribunal consisting of three persons and shall also appoint a Registrar to act as Secretary of the Tribunal. Sub-sect. (2) provides that the State Government shall, by the same or alike notification, appoint a date on or before which application for registration, which shall be accompanied by the prescribed fee, shall be made to the Registration Tribunal. Under sub-sect. (3), the Registration Tribunal shall examine every application application received on or before the appointed date, and if it is satisfied that the applicant is qualified for registration under Section 33, shall direct the entry of the name of the applicant on the register. It is clear from the provisions Sub-sect. (3) that the Registration Tribunal is competent to examine the qualifications for registration of those applicants only whose applications were received on or before 30-5-50, the date fixed by Government under sect. 32(2) of the Act. If in respect of applications received on or before 30-5-50 the Registration Tribunal is satisfied that the applicants concerned are qualified for registration, it shall direct the entry of their names on the register. Under Sub-section (4), the register so prepared there thereafter shall be published in such manner as the State Government may direct, and any person aggrieved by a decision of the Registration Tribunal expressed or implied in the register as so published, within 30 days from the date of such publication, appeal to an authority appointed by the State Government in this behalf by by notification in the Offical Gazette. Under Sub-sect. (5), the Registrar shall amend the register in

shall amend the register in accordance with the decision of the authority appointed under sub-sect. (4), and shall thereupon issue to every person whose name is entered in the register a certificate of registration in the prescribed form. As it is in accordance with the decision of the appellate authority appointed under sub-sect. (4) that the Registrar is required to amend the register, and to issue a certificate of registration, it is obvious that its decision is final and conclusive, and in the absence of any specific power vested in Government, whether by way of appeal or revision, Government cannot interfere with such decision. Governme t has no power to condone the delay in submitting the applications to the Registration Tribunal under Sect. 32(3) of the Act.

Ds(civil) Reply may be :-

Seen and returned.

The view taken by L.S.G. & P.H Dept. is correct. Govt. has no power to condone the delay in submitting the applications for registration under the Dentists Act, 1948.

R.L.A. Sd/-

U.T. to L.S.G. and P.H.D. No. 13007 dt. 13-8-1951.

C.G.R. 1-7

C 5

Ds Government that will decide the question of handing over what portion if any of the application fees should be paid to the credit of the Provincial Council. The suggestions made by S.G. appear to be free from objections and this may be seen and returned.

S.A.S.

As pointed out in R.L.A.'s opinion No. 1895 dated 31-1-1951, there is no provision in the Dentists Act, 1948, entitling the Registration Tribunal to operate the funds of the Tribunal realised by way of fees and to incur any expenditure out of such funds. It would, however, be open to Government to incur expenditure in connection with the elections to the Procinvial Councial and to recoup the same out of the fees collected under sub-sect. (2) of sec. 32. Sub-sect. (6) of sect 32 of the Dentists Act implies that the money realised by way of application fees for registration in the first register under sub-sect. (2) shall vest in Govt., and this veiw finds also support from para. 5 of G.R., Health and Local Govt. Deptt. No. 2338/33 dated 13-9-1948. In view of para. 9 of the said G.R. read with the provision contained in rule 87 of the Bombay Dentists Rules, 1951, it appears that for meeting the necessary expenditure for election ect. during the interval, the Registrar can be authorised to operate on an account opened jointly in the name of the Registrar and Surgeon General or some other officer, provided that sufficient security is taken from him.

Ds(Civil) Reply may be:-

R.L.A. has no fresh remarks to offer. The Legal possition has already been explained by the R.L.A. in his last opinion No. 1895 dated 31-1-1951.

20/8/51. U.R. to L.S.G. & P.H.D.No. 13412 dt. 22-8-1951.